



Town of Moultonborough Zoning Board of Adjustment

Notice of Decision

Request for Variance

Stephanie and Brian Porusta/Tax Map 3, Lot 5

June 16, 2010

**Applicant: Stephanie and Brian Porusta
436 Ossipee Mountain Road
Moultonborough, NH 03254**

Location: 436 Ossipee Mountain Road, Moultonborough, NH (Tax Map 3, Lot 5)

On June 2, 2010 the Zoning Board of Adjustment of the Town of Moultonborough opened a public hearing on the application of Stephanie and Brian Porusta (hereinafter referred to as the “Applicant” and/or “Owner”) for a variance from Article III (B) (4) to allow for removal of the existing garage and construction of a new garage/barn in a slightly different location within the 50-foot stream setback for the parcel in the Agricultural Residential (AR) Zoning District.

Based on the application, testimony given at the hearings, and additional documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 436 Ossipee Mountain Road (Tax Map 245, Lot 72).
- 2) The applicants are the owners of record for the lot.
- 3) The applicants were represented at the Public hearing by Rob Cheney of RL Cheney Construction LLC.
- 4) The lot is located in the Agricultural Residential (AR) Zoning District.
- 5) The existing garage is to be removed.
- 6) The proposed 36' X 48' 1 ½ story barn/garage is to be located farther away (40-feet) from the stream than the original garage structure (21-feet), reducing the existing non-conformity.
- 7) The proposed garage will not be heated or contain living space.

- 8) No members of the public wished to speak on the application.
- 9) Granting the Variance will not be contrary to the public interest as the use of the lot for residential use is in accordance with the permitted uses in the Agricultural Residential (AR) Zoning District and the proposed change will remain consistent with the existing use.
- 10) Granting the Variance is consistent with the spirit of the Ordinance as the intent of the barn/garage is consistent with other uses and locations in the district.
- 11) By granting the Variance, substantial justice is done.
- 12) Granting the Variance does not diminish the value of surrounding properties as the neighborhood is largely comprised of single-family homes of like construction and style, and the barn/garage will not negatively affect the properties around it as the proposed structure is consistent in style and size with other structures on similar lots in this district.
- 13) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship as the location of the stream on the property and the needs of the applicant to reasonably access the barn/garage limit the reasonable locations on the lot for location of such a garage/barn.
- 14) The Zoning Board of Adjustment voted by a vote of five (5) in favor (Stephens, Heal, Nolin, McCarthy, Roseberry), and none (0) opposed to continue the Public Hearing to June 16, 2010, and to direct the Town Planner to draft a Notice of Decision to Grant the Variance, to be reviewed by the Board at the June 16, 2010 Regular Meeting.

The Public Hearing was continued to June 16, 2010. The Board of Adjustment closed the Public Hearing on June 16, 2010. Based on the above Findings of Fact, the Board of Adjustment voted by a vote of four (4) in favor (Stephens, Hopkins, Nolin, Roseberry), none (0) opposed, to **GRANT** the request for variance.

This decision shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.

Robert H. Stephens
Chairman, Zoning Board of Adjustment

Date _____